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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 4 June 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Andorra to the United Nations addressed to the Chairman of the Committee

At the request of my Government, I have the honour to transmit to you in your capacity as Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) the report to be submitted by the Principality of Andorra to the Committee.*

My Government will be happy to provide the Committee with additional information, as it considers necessary.

(*Signed*) Jelena Piá **Comella**
Chargé d'affaires a.i.

* The annexes referred to in the report are on file with the Secretariat, room S-3055, and are available for consultation.

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Annex to the letter dated 4 June 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Andorra to the United Nations addressed to the Chairman of the Committee

[Original: French]

Report on the implementation of Security Council resolution 1390 (2002)

Introduction

On 16 January 2002, the Security Council adopted resolution 1390 (2002) to follow up its other resolutions on the sanctions imposed on Afghanistan. Paragraph 6 thereof requests all States to report to the Committee on the steps they have taken to implement those resolutions.

The Principality of Andorra has a longstanding tradition of peace and has always expressed its rejection of all forms of terrorism. The following report indicates Andorra's willingness to cooperate with the United Nations in combating all forms of terrorism, as has often been reaffirmed by the head of Government, Mr. Marc Forné, and by the Minister for Foreign Affairs, Mr. Juli Minoves. This report is also based on close cooperation among all the relevant departments, namely, the Ministry of Justice and the Interior, the Unit for the Prevention of Money-Laundering (UPB), the police forces and the Ministry of Foreign Affairs.

We remain fully at the disposal of the Committee established by resolution 1267 (1999) to furnish any further information it may require, and we are open to all recommendations.

(1) *All legislative and/or administrative measures taken in order to freeze the funds and other financial assets or economic resources of the individuals, groups, undertakings and entities referred to in paragraph 2 of resolution 1390 (2002), including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and to ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.*

The following articles of the Act on Cooperation in International Penal Matters and in Combating the Laundering of Money or the Proceeds of International Crime of 29 December 2000 set forth the accepted procedure for the freezing of funds and other financial assets. Article 38 provides for international judicial cooperation in respect of requests for the confiscation of the instruments of a crime or the proceeds, money, assets or goods acquired thereby. Article 47 provides that the Unit for the Prevention of Money-Laundering (UPB) may order the freezing of the operation on a provisional basis, if it deems that the evidence so warrants, during which time UPB must refer the action to the Attorney General's Office if the evidence is confirmed.

Accordingly, and as set forth in its regulation 3-2-b, UPB may issue technical communiqués to obligors (article 45 of the law) so that they may take the relevant steps to anticipate and prevent the laundering of capital. When such communiqués

are of general interest, they may be published in the *Official Gazette* of the Principality of Andorra.

The obligors are defined in the following excerpt:

"Andorran financial institutions and insurance and reinsurance companies and other physical or moral persons who, in the exercise of their occupational or entrepreneurial activity, carry out or provide advice on operations involving movements of money or assets that could be used for purposes of laundering, shall be subject to the obligations set forth in this Act; these include, in particular:

(1) External accountants and tax assessors;

(2) Real estate agents;

(3) Notaries and members of other independent legal professions who:

- Participate in the planning or execution of operations for their clients in the framework of the following activities:

  (a) Purchase and sale of real estate or commercial enterprises;

  (b) Handling of liquid money, securities or other client assets;

  (c) Opening or management of banking accounts, savings accounts or securities;

  (d) Organization of the necessary inputs for the establishment, management or administration of firms;

  (e) Constitution, management or administration of firms, trusts or similar structures;

- Or act on behalf of their clients in any financial or real estate transaction whatsoever.

(4) Sellers of articles of great value, such as precious stones and metals, where the payment is made in liquid money in an amount equal to or greater than €15,000, or the equivalent in any other currency."

In that regard, and following the recommendations of resolutions 1267 (1999), 1333 (2000) and 1390 (2002), UPB has prepared two technical communiqués (in October and November 2001[1]), listing physical and moral persons who are in contact with companies and organizations linked to Osama bin Laden, Al-Qa'ida and other international terrorist groups. UPB has just issued a third technical communiqué identifying persons who have not yet been listed and who are referred to in Security Council resolutions.[2]

In response to these communiqués, UPB has received replies from the persons in question confirming the non-existence of accounts in the name of the persons or entities included in the two above-mentioned lists.

[1] Annexes 1 and 2.
[2] Annex 3.

(2) *All measures taken to prevent the entry into or the transit through their territories of the individuals referred to in the list mentioned in paragraph 2 of resolution 1390 (2002).*

The geographical features of Andorra make it impossible for the country to have its own air access. Moreover, Andorra's location in the middle of the Pyrenees also makes sea access impossible.

Consequently, the only access to Andorra is by land, through only two entry points: on the north, the French-Andorran border, and on the south, the Spanish-Andorran border. For these reasons, persons arriving in Andorra have to pass through the border checkpoints of our neighbouring countries.

This does not prevent the Andorran police from again verifying that the individuals have the necessary travel documents, such as a passport, and even checking to see that they have enough money to travel in Andorra.

Nonetheless, since the 11 September attacks, the Andorran police, bearing in mind these events that shocked the whole world, have reinforced their border controls in order to detect the entry of possible terrorists into Andorra.

In addition, members of the police force have taken training courses in cooperation with the Spanish and French police to learn how to better detect the falsification of documents. Accordingly, to prevent the use of counterfeit passports, Andorra follows the rules established by the International Civil Aviation Organization (ICAO) concerning official travel documents. These rules have been followed since 19 April 1995, even before the admission of Andorra on 26 January 2001.

These security measures ensure strict surveillance and help prevent the use of counterfeit documents. The measures also apply to immigration visas.

Notwithstanding, the Penal Code contains a number of provisions concerning the counterfeiting, falsification or fraudulent use of documents, as follows:

- Anyone who falsifies a public or official document shall be penalized by five years' imprisonment (art. 148);
- In the case of falsification by a public servant in the performance of his or her duties, the penalty incurred shall be seven years' imprisonment (art. 149);
- Anyone who uses or, with full awareness, takes advantage of false documents shall be penalized by three years' imprisonment (art. 151). Such documents include identity papers, passports, drivers' licences, weapons permits or any other document normally issued by the competent authorities;
- The fraudulent or unjustified possession of any false document shall be penalized by imprisonment for two years and one month (art. 152);
- In cases where the false documents are blank, the penalty shall also be imprisonment for two years and one month (art. 153);
- The transfer, sale or provision of false documents shall be penalized by six years' imprisonment (art. 154).

In case of doubt, however, the Andorran police shall check with the operational information units.

In matters concerning visas, Andorra does not have its own legislation. In December 2000, however, the Principality signed an agreement with France and Spain, concerning the right of nationals of third States to travel and stay in the Principality, article 2 of which provides that the contracting parties agree to coordinate their legislation on the entry and stay of nationals of third States, taking into account, among other things, their own interests and their international undertakings. To that end, the contracting parties must regularly submit to each other a list of third States whose nationals are subject to visa requirements for a visit or stay of less than 90 days.

Nonetheless, if a person whose name is on the list mentioned in paragraph 2 of resolution 1390 (2002) enters Andorra in order to establish residence there, he or she must follow the procedure required for immigration purposes. Anyone who wishes to become a legal resident of Andorra must submit an application for immigration to the Immigration Service (Immigration Service Regulatory Decree of 15 February 1996, art. 1). The application may be rejected, however, pursuant to the Basic Decree on Immigration of 26 June 1980, which provides for a background check of the applicant, which may lead to the denial of authorization to immigrate (para. III-7).

Accordingly, the police services (art. 3 (c) and (d) of the Immigration Service Regulatory Decree) are authorized to check the judicial and police records of foreigners and the veracity of any official documents they may be carrying, and to enforce public policy in general.

If a person's application for immigration is rejected, he or she must leave Andorra immediately. If necessary, an order of expulsion and escort to the border may be issued under article 14.2 of the Viguiers Decree on alien residence of 3 July 1980. On 14 May of this year, however, the General Council adopted a new immigration act, which entered into force 90 days after its publication in the *Official Gazette* of the Principality of Andorra. This Act stipulates that certain personal criteria must be met for an immigration permit to be issued; for example, article 42 provides that anyone who applies for immigration must not represent a danger to the security of the State, persons or goods, or to public policy, while article 47 provides for the denial of authorization in cases where the documents or information provided have been falsified or omitted. (The same criteria will be applied to those residents who wish to renew their immigration permits.)

(3) *All measures taken to prevent the direct or indirect supply, sale and transfer to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment and spare parts for the aforementioned, and technical advice, assistance, or training related to military activities.*

The Andorran legal system contains various provisions on arms trafficking. First, a decree enacted on 3 July 1989 sets forth regulations for the possession, utilization and circulation of firearms; more precisely, sections II and III list the prohibited arms and imitation arms and those which it is forbidden to carry.

Second, the Penal Code sanctions the unlawful possession of firearms (arts. 289 and 290). Thus, the storage, import, export, trade or transport, whether real or

assumed, through the Principality or manufacture of those prohibited weapons or imitations thereof which are referred to in article 2, section 2, of the decree of 3 July 1989, with the exception of those referred to in paragraph 8, is punishable by up to 10 years' imprisonment. Moreover, the illegal carrying of one or more weapons is punishable by up to five years' imprisonment (arts. 89 and 90).

Third, article 93 provides that the import, acquisition, sale, possession, carrying and repair of regulated weapons or the manufacture of regulated ammunition without an appropriate permit, authorization or licence is punishable by a maximum of three years' imprisonment, except in the cases stipulated in articles 289 and 290 of the Penal Code. Smooth-bore hunting rifles are excluded from the provisions of this article.

Similarly, article 95 provides that the illegal sale of regulated handguns to a non-resident of the Principality shall be punishable by up to four years' imprisonment. It also provides that anyone who conducts international transactions in respect of regulated weapons, with real or assumed transit through the Principality, shall be penalized by up to eight years' imprisonment. Similarly, concerning explosives, the purchase, sale, possession or import of explosives not intended for use in an authorized activity is punishable by up to 10 years' imprisonment (arts. 96 and 98, respectively).